

In the
Indiana Supreme Court



IN THE MATTER OF THE)

APPROVAL OF LOCAL RULES)

FOR WAYNE COUNTY)

Case No. 89S00-1402-MS- 101

ORDER APPROVING AMENDED LOCAL RULES

The Judges of the Wayne Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order are the proposed amended local rule.

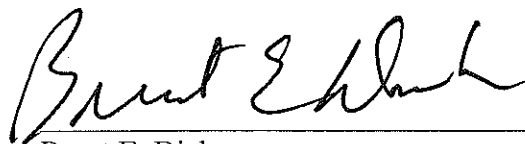
Upon examination of the proposed rule amendments requested by the Wayne Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR89-AR1-013 and LR89-CR00-013 comply with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR89-AR1-013 and LR89-CR00-013 for Wayne Circuit and Superior Courts, set forth as attachments to this Order, are approved effective retroactive to February 1, 2014. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Darrin M. Dolehanty, Wayne Superior Court 3, 301 East Main Street, Richmond, IN 47374-4200; the Hon. Gregory A. Horn, Wayne Superior Court 2, 301 East Main Street, Richmond, IN 47374-4200; to the Hon. David Andrew Kolger, Wayne Circuit Court, 301 East Main Street, Richmond, IN 47374-4200; to the Hon. Charles K. Todd, Wayne Superior Court 1, 301 East Main Street, Richmond, IN 47374-4200; to the Clerk of the Wayne Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Wayne Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment

for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on February 14, 2014.

A handwritten signature in black ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson
Chief Justice of Indiana

WAYNE COUNTY CASELOAD ALLOCATION PLAN

LR89-AR1-013 RANDOM FILING OF CIVIL CASES

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior No. 3 hereby adopt the following filing procedure for civil cases filed in Wayne County as follows:

1. All small claims (SC) cases shall be filed in Wayne Superior Court No. 3.
2. All Child In Need Of Services (JC) cases, Juvenile Delinquent (JD) cases, Termination of Parental Rights (JT) cases, Juvenile Status (JS) cases, and Guardianship cases arising out of a JC or JD (GU), shall be filed in Wayne Superior Court No. 3.
3. Agreed upon adoption (AD) cases arising out of a JC or JT case shall be filed in Wayne Superior Court No. 3.
4. All mental health (MH) cases shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
5. All Petitions seeking expungement or related relief under I.C. 35-38-5-1 et seq., I.C. 31-39-8-1 et seq. (juvenile expungement), or I.C. 35-38-9-1 et seq. and assigned a Civil Miscellaneous (MI) case number, shall be filed as follows:
 - a. Relief sought from conviction/disposition/adjudication in only one (1) prior case shall be filed in the court that originally entered judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case; and,
 - b. Relief sought from conviction/disposition/adjudication in more than one (1) prior case shall be filed in the court that entered the most recent judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case.

6. All other civil cases including, but not limited to, Civil Plenary (CP before 1/1/2002, now PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Tort (CT), Domestic Relations (DR), Reciprocal Support (RS), Adoptions (AD) not otherwise filed in Wayne Superior Court No. 3 pursuant to Paragraph 3 above, Probate Supervised (ES), Probate Unsupervised (EU), Guardianships (GU) not arising out of a JC or JD, Trusts (TR), Protective Orders (PO), and Civil Miscellaneous (MI), excluding expungement related cases which are provided for in Paragraph 5 above, shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
7. The judges of the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2 shall periodically review the filing patterns of civil cases and the Judges of such courts reserve the right to transfer cases in the event of a disproportionate distribution of cases in order to balance the caseload and expedite dispositions of all pending civil cases.

LR89-CR00-013 FILING PROCEDURE FOR CRIMINAL CASES

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior No. 3 hereby adopt the following filing procedure for criminal cases filed in Wayne County as follows:

1. All misdemeanors and infraction cases shall be filed in Wayne Superior Court No. 3 unless the misdemeanor accompanies a felony charge filed in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.
2. The following felony charges shall be filed in Wayne Superior Court No. 3, unless at least one (1) Class C, Class B, or Class A felony (other than those filed under I.C. 9-30-5 or 9-30-6) or Murder charge, is also filed against the same defendant in the same Information or Indictment:
 - a. Battery, a class D Felony, filed under I.C. 35-42-2-1.
 - b. Domestic Battery, a Class D Felony, filed under I.C. 35-42-2-1.3.
 - c. Strangulation, a Class D Felony, filed under I.C. 35-42-2-9
 - d. Possession of marijuana, hash oil, hashish, salvia, a synthetic cannabinoid or other substance listed at I.C. 35-48-4-44, a Class D Felony.
3. All offenses filed under I.C. 9-30-5 shall be filed in Wayne Superior Court No. 3 unless at least one (1) Class C, Class B, or Class A Felony charge or Murder charge is also filed against the same defendant in the same Information or Indictment and, then, such charges shall be filed in a random and equal manner, by case type, in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.

4. All offenses involving the operation of a motor vehicle while driving privileges are suspended, restricted, or forfeited shall be filed in Wayne Superior Court No. 3 unless at least one (1) Class C, Class B, or Class A Felony charge or Murder charge is also filed against the same defendant in the same Information or Indictment and, then, such charges shall be filed in a random and equal manner, by case type, in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.

5. If a defendant:

- a. has at least one pending criminal case, and/or
- b. is on probation

in Wayne Circuit Court, Wayne Superior Court No.1, or Wayne Superior Court No. 2, then any felony charges brought against the same defendant, other than those felony charges to which Paragraphs 2, 3, or 4 above apply, shall be filed in the court having jurisdiction over the matter referred to in (a) or (b) of this Paragraph above.

6. If a defendant:

- a. has at least one pending criminal case, and/or
- b. is on formal felony probation

in Superior Court No. 3, then any Class D Felony charges brought against the same defendant shall be filed in Wayne Superior Court No. 3.

7. Except as provided in Paragraphs 1 through 6, above, all other criminal charges shall be filed in a random and equal manner, by case type, in Wayne Circuit Court, Wayne Superior Court No.1, or Wayne Superior Court No. 2.

8. If the Judge or court personnel are required as witnesses in any case, the case shall not be filed in that Court, and the Clerk shall cause that case to be randomly filed in a different Court, unless otherwise excepted by this rule (LR89-CR00-013).

9. When the State of Indiana chooses to re-file a dismissed case, the re-filed case shall be assigned to the Court from which the dismissal was taken. This rule applies to all charges arising out of the same offense report, arrest report, or set of operative facts.

10. In order to provide for an appropriately balanced caseload and appropriate use of court resources, the Judges of the Wayne County Courts may, from time to time, transfer cases to other courts within Wayne County. Transfer of cases shall be by written order of the forwarding court, and shall be subject to written consent by the Judge of the receiving Court.
11. If unusual and unforeseen circumstances occur, deviation from the provisions of this rule may be obtained for a particular case with the approval of the Wayne County Judges.
12. The filing of any case in a manner contrary to the rules set out above shall not be considered as grounds to support a motion for transfer or for a change of venue from the court or Judge. The presiding Judge may transfer such a case, at his or her discretion.
13. In the event that a criminal offense is added or significantly modified by statute, including any alternation in the level of misdemeanor or felony, the Judges of the Wayne Circuit and Superior Courts will issue a temporary local rule to address the proper filing of such offense. The temporary local rule will have effect until the local rule can be formally amended.